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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/116,395 07/16/98 OBSZARNY

C FI9-97-288 *hec*

EXAMINER

MM32/1110

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*KIM P*  
ART UNIT

PAPER NUMBER

2851  
DATE MAILED:

11/10/99 *G*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/116,395

Applicant(s)

Obszarny

Examiner

PETER KIM

Group Art Unit

2851



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-16 is/are pending in the application.

Of the above, claim(s) 10-16 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-9 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Claims 10-16 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 7.
2. Applicant's election with traverse of restriction requirement in Paper No. 7 is acknowledged. The traversal is on the ground(s) that 35 USC 121 authorizes restriction only when the claimed invention is "independent and distinct" and that the search of the subject matter for Group II would necessarily require a search of the subject matter of Group I. This is not found persuasive. The restriction for process and apparatus only requires one way distinctness which was shown in the previous office action. And the search for Group I and Group II are not coextensive.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

3. The disclosure is objected to because of the following informalities: On pages 12, 13 and 14, reference 16 refers to both SOG and photo mask. References 16 and 26 are used for the photo mask. Reference 26 refers to both photo mask and photo mask polarizing section.

Appropriate correction is required.

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*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 1 and 7, "the optical transmission" and "the contrast" lack proper antecedent basis.

The remaining claims, not specifically mentioned, are rejected for incorporating the defects from the base claim by dependency.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanabe in view of Matsumoto.

Tanabe discloses an apparatus for exposing a substrate with a polarizer (ref. 101) capable of adjustment during the optical transmission, a photo mask (ref. 22) patterned with a plurality of

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optically transparent and optically opaque regions and an electromagnetic radiation beam image reducing means to reduce and focus the diffraction pattern on the substrate. However, Tanabe does not disclose a photo mask impregnated with a second polarizer. Matsumoto discloses a photo mask impregnated with a polarizer. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the photo mask of Matsumoto to the invention of Tanabe in order to properly adjust the intensity and the contrast of the transmission.

8. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanabe in view of Matsumoto as applied to claim 1 above, and further in view of Ishihara.

The further difference between the claimed invention and the modified Tanabe is the electromagnetic radiation beam focusing means for concentrating the beam on the first polarizer. Ishihara discloses in Figure 5, focusing means for concentrating the beam on the first polarizer. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify Tanabe by providing the focusing means of Ishihara in order to concentrate the beam on the first polarizer.

9. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanabe in view of Matsumoto as applied to claim 1 above, and further in view of Okamoto et al. (Okamoto).

The further difference between the claimed invention and the modified Tanabe is the photo

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mask with a spin-on-glass layer for phase shifting and a patterned metal layer for blocking transmission. Okamoto discloses an exposure apparatus with a photo mask with a patterned spin-on-glass layer for phase shifting and a patterned metal layer made of chromium for blocking transmission. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify Tanabe with the photo mask of Okamoto in order to obtain phase shifting necessary for the contrast adjustment.

10. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanabe in view of Matsumoto and Ishihara.

Tanabe discloses an apparatus for exposing a substrate with a polarizer (ref. 101) capable of adjustment during the optical transmission, a photo mask (ref. 22) patterned with a plurality of optically transparent and optically opaque regions and an electromagnetic radiation beam image reducing means to reduce and focus the diffraction pattern on the substrate. However, Tanabe does not disclose a photo mask impregnated with a second polarizer and the focusing means for focusing electromagnetic radiation beams on the first polarizer. Matsumoto discloses a photo mask impregnated with a polarizer and a phase shifting layer. Ishihara discloses a focusing means for the first polarizer. Although Matsumoto does not explicitly state the transmissivity level of 0.1%, it is well known that metal layer such as chromium has very low transmissivity level of 0.1% or lower. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the photo mask of Matsumoto and the focusing means

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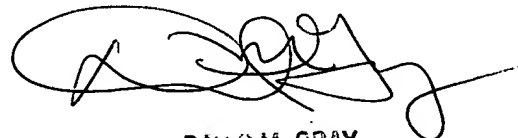
of Ishihara to the invention of Tanabe in order to properly adjust the intensity and the contrast of the transmission.

*Conclusion*

11. All claims are rejected.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Kim whose telephone number is (703) 305-0105. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

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DAVID M. GRAY  
PRIMARY EXAMINER

10/27/99